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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,653	06/12/2006	Erwin Bayer	011235.57206US	6274
23911 7590 07/08/2009 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER				
BLACKWELL, GWENDOLYN				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
07/08/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/562,653

**Applicant(s)**

BAYER ET AL.

**Examiner**

GWENDOLYN BLACKWELL

**Art Unit**

1794

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-36 is/are pending in the application.
- 4a) Of the above claim(s) 17-24 and 31-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-30, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 12/27/05.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group II, claim 25-30 and 35-36 in the reply filed on May 27, 2009 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

*(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

3. Claims 35-36 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent no. 5,985,454, McMordie et al.

#### ***Regarding claims 35-36***

McMordie et al disclose a multilayered coating for preventing fouling to turbomachinery (protective layer), (column 5, lines 65-66). The coating is comprised of a first layer of an aluminum filled ceramic which contains phosphate and a second layer such as a phosphate or silicate binder containing oxides of chromium, iron or aluminum, (column 6, lines 2-37).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent no. 6,165,600, Ivkovich et al, in view of United States Patent no. 7,311, 944, Sambasivan et al.

*Regarding claims 25-27 and 29-30*

Ivkovich et al disclose a thermal insulating multilayer ceramic coating for a turbine component comprised of at least two ceramic tape compositions containing ceramic particles dispersed in binder, (column 2, lines 33-55). The particular composition of the ceramic layers can be varied in response to the composition of the substrate and the environment to which the outermost ceramic layer will be subjected, (column 4, lines 41-43). The binder can be a silica

based glass frit (silicate), (column 4, lines 53-55). Particles can be added to the different tapes. Ivkovich et al does not specifically disclose that different particles are embedded in the layers depending on the distance from the component or a layer sequence of at least two different layers is repeated a plurality of times.

Ivkovich et al disclose that the composition of the tapes are formulated to achieve different mechanical and physical properties for the layers, wherein the closer the layers are towards the substrate, the layers should be made to provide thermal compatibility between the substrate and the outermost layer, (columns 3-4, lines 51-6). It would have been obvious to one skilled in the art at the time of invention to modify the composition of the differing tapes taking into account the desired properties for the tape based upon the location of the tape in the overall coating structure. It also would be within the skill of one in the art through routine optimization to determine the number and order of the layers as well as the particular particle required for each layer, (column 4, lines 60-67).

*Regarding claim 28*

Ivkovich et al does not specifically disclose an antifouling layer.

Sambasivan et al disclose an aluminum phosphate coating used to provide anti fouling properties on turbine components, (column 12, lines 1-44).

Ivkovich et al and Sambasivan et al disclose analogous inventions related to protective coatings formed on turbine components. It would have been obvious to one skilled in the art at the time of invention to modify the coating of Ivkovich et al with the anti fouling coating of Sambasivan et al in order to extend the lifetime of the turbine component and allow higher operational temperatures with minimal additional cost, (Sambasivan, column 12, lines 1-13).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GWENDOLYN BLACKWELL whose telephone number is 571-272-5772. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on 571-272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GWENDOLYN BLACKWELL/  
Primary Examiner, Art Unit 1794